IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7851 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MUKUNDBHAI HARIBHAI PATEL LECTURER IN GUJARATI

Versus

PRINCIPAL

Appearance:

MR DP VORA for Petitioner Nos. 1-3

Mr.K.P. Raval, Assistant GOVERNMENT PLEADER, for Respondent Nos. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/08/2003

ORAL JUDGEMENT

1. Rule. Mr.K.P. Raval, learned AGP, waives service of rule on behalf of the respondents.

With the consent of the parties, the matter is taken up for final hearing today.

2. The grievance of the petitioners is that even though they are serving on ad hoc basis since more than 10 years and even though they were given senior scale, the same is now ordered to be withdrawn without hearing the petitioners. It is submitted by the learned Advocate for the petitioners that, even though it is true that they have not been selected through GPSC, since they have been given the benefit of senior scale, as has been given to other Lecturers, they are entitled to get the benefit of the same higher scale.

3. In response to the notice, the State has appeared and has filed affidavit-in-reply. The stand of the respondents is that the petitioners are not regularly selected and they have not get the appointment through the GPSC. It is submitted that their appointment is only on ad hoc basis. However, in my view, before passing the order of recovery, at least, the petitioners were required to be heard by the respondent No.1. Admittedly, no hearing was given to the petitioners. Under the circumstances, the impugned order is quashed and set aside. Respondent No.1 may accordingly pass an appropriate order in accordance with law. Since no hearing was given to the petitioners and since that aspect is not in dispute, the matter is required to be allowed only on that limited ground. It is clarified that this Court has not expressed any opinion and it is for the Government to take appropriate decision in accordance with law.

4. The petition is partly allowed accordingly. Rule is made absolute accordingly with no order as to costs.

18th August, 2003 (P.B. Majmudar, J.)

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(apj)